

VIOLATIONS AND PENALTIES

§25299, Health and Safety Code (H&SC)

This section of the law describes civil and criminal penalties for violating the law. Following is the text (with emphasis added) of Section 25299 H&SC:

- (a) Any **operator** of an underground tank system shall be liable for a civil penalty of not less than five hundred dollars (**\$500**) or more than five thousand dollars (**\$5,000**) for **each underground storage tank** for **each day** of violation for any of the following violations:
 - (1) Operating an underground storage tank system which has not been issued a permit, in violation of this chapter.
 - (2) Violation of any of the applicable requirements of the permit issued for the operation of the underground tank system.
 - (3) Failure to maintain records as required by this chapter.
 - (4) Failure to report an unauthorized release, as required by Sections 25294 and 25295.
 - (5) Failure to properly close an underground storage tank system, as required by Section 25298.
 - (6) Violation of any applicable requirement of this chapter or any requirement of this chapter or any regulation adopted by the board pursuant to Section 25299.3.
 - (7) Failure to permit inspection or to perform any monitoring, testing or reporting required pursuant to Section 25288 or 25289.
 - (8) Making any false statement, representation, or certification in any application, record, report or other document submitted or required to be maintained pursuant to this chapter.
 - (9) Tampering with or otherwise disabling automatic leak detection devices or alarms.
- (b) Any **owner** of any underground storage tank system shall be liable for a civil penalty of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000) per day for each underground storage tank, for each day of violation, for any of the following violations:

- (1) Failure to obtain a permit as specified by this chapter.
 - (2) Failure to repair or upgrade an underground tank system in accordance with this chapter.
 - (3) Abandonment or improper closure of any underground tank system subject to this chapter.
 - (4) Knowing failure to take reasonable and necessary steps to assure compliance with this chapter by the operator of an underground tank system.
 - (5) Violation of any applicable requirement of the permit issued for operation of the underground tank system.
 - (6) Violation of any applicable requirement of this chapter or any regulation adopted by the board pursuant to Section 25299.3.
 - (7) Failure to permit inspection or to perform any monitoring, testing or reporting required pursuant to Section 25288 or 25289.
 - (8) Making any false statement, representation or certification in any application, record, report or other document submitted or required to be maintained pursuant to this chapter.
- (c) Any person who intentionally **fails to notify** the board or the local agency when required to do so by this chapter or who **submits false information** in a permit application, amendment, or renewal pursuant to Section 25286, is liable for a civil penalty of not more than five thousand dollars (\$5,000) for each underground storage tank for which notification is not given or false information is submitted.
- (d) (1) Any person who falsifies any monitoring records required by this chapter, or knowingly fails to report an unauthorized release, shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000) or more than ten thousand dollars (\$10,000), by imprisonment in the county jail for not to exceed one year, or by both that fine and imprisonment.
- (d) (2) Any person who intentionally disables or tampers with an automatic leak detection system in a manner that would present the automatic leak detection system from detecting a leak or alerting the owner or operator of the leak, shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000) or more than ten

thousand dollars (\$10,000), by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

- (e) In determining both the civil and criminal penalties imposed pursuant to this section, the court shall consider all relevant circumstances, including, but not limited to, the extent of harm or potential harm caused by the violation, the nature of the violation and the period of time over which it occurred, the frequency of past violations and the corrective action, if any, taken by the person who holds the permit.
- (f) Each civil penalty or criminal fine imposed pursuant to this section for any separate violation shall be separate, and in addition to, any other civil penalty or criminal fine imposed pursuant to this section or any other provision of law, and shall be paid to the treasury of the local agency or state, whichever is represented by the office of the city attorney, district attorney or Attorney General bringing the action. All penalties or fines collected on behalf of the board or a regional board by the Attorney general shall be deposited in the State Water Pollution Cleanup and Abatement Account in the State Water Quality Control Fund, and are available for expenditure by the board, upon appropriation, pursuant to Section 13441 of the Water Code.
- (g) Paragraph (9) of subdivision (a) does not prohibit the owner or operator of an underground storage tank, or his or her designee, from maintaining, repairing or replacing automatic leak detection devices or alarms associated with that tank.

INJUNCTIONS AND RESTRAINING ORDERS THROUGH SUPERIOR COURT

The most egregious violations may require drastic measures on your part. If you have violations that seriously threaten human health and safety or the environment and you must stop the threat immediately, go to your city attorney or district attorney for a temporary or permanent injunction or restraining order.

§25299.01, H&SC

When any person has engaged in, is engaged in, or is about to engage in any acts or practices which violate this chapter, or Chapter 6.75 (commencing with Section 25299.10) or any rule, regulation, permit, standard, requirement or order issued, adopted, or executed pursuant to this chapter or Chapter 6.75 (commencing with Section 25299.10), the city attorney of the city in which the acts or practices occur, occurred, or will occur, the district attorney of the county in which the acts or practices occur, occurred or will occur, or the attorney General may apply to the superior court for any order enjoining these acts or practices, or for an order directing compliance.

The court may grant a permanent or temporary injunction, restraining order, or other order.

§25299.02, H&SC

Every civil action brought under this chapter shall be brought by the city attorney, the district attorney or the Attorney General in the name of the people of the State of California, and any actions relating to the same violations may be joined or consolidated.

§25299.03, H&SC

Any civil action brought pursuant to this chapter shall be brought in the county in which the violation occurred, the county in which the principal office of the defendant is located, or the county in which the Attorney General has an office nearest the county in which the principal office of the defendants, or any of them, in this state is located.

LOCAL AGENCY REQUIREMENTS CAN BE MORE STRINGENT THAN STATEMENT REQUIREMENTS

§25299.2, H&SC

- (a) Except as provided in subdivision (a) of Section 25299.4, this chapter does not preclude or deny the right of a local agency to adopt and enforce any regulation, requirement, or standard of performance that is more stringent than a regulation, requirement, or standard of performance in effect under this chapter with respect to underground storage tanks, if the regulation, requirement or standard of performance, as provided in this subdivision, is consistent with this chapter.
- (b) This chapter shall not be construed to preclude or deny the right of a local agency to regulate tanks which are not subject to regulation under this chapter or the federal act.